

**REMARKS**

The above amendment with the following remarks is submitted to be fully responsive to the Official Action of March 2, 2005. Reconsideration of this application in light of the amendment and the allowance of this application are respectfully requested.

Claims 1-7, 11-17, 20, 21 and 23 stand rejected under 35 U.S.C. §102(e) as being anticipated by Golden. Also, claims 1, 11, 18 and 19 stand rejected under 35 U.S.C. §102(b) as being anticipated by Storck et al. In addition, claims 8, 9 and 10 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Storck et al. In response, independent claims 1, 11, 21 and 23 have been amended to clarify the present invention. Thus it is believed that the independent claims are now allowable over the prior art of record.

The present invention is directed to a cargo support, or motor vehicle having a cargo support, which includes a window area framed element, or an upper frame element, and a mounting for attachment of the frame element at a lower area of a rear window of the vehicle so that the frame element is movable between a first mounting position at least partially framing a rear window of the motor vehicle, flush with a rear door of the motor vehicle, and a second mounting position essentially horizontal for supporting a cargo. Importantly, the frame element includes a transverse member extending adjacent an upper area of a rear window and at least one lengthwise member extending from the transverse member adjacent the rear window.

Golden nor Storck anticipate the present invention as recited in the newly amended independent claims for the following reasons. Admittedly, Golden discloses an extendable cargo platform positioned on a rear portion of a vehicle. However, Golden does not suggest a frame element as intended by the original claims. It is Applicants representative's contention that no reasonable interpretation of Golden would conclude that Golden discloses a frame element.

The cargo platform of Golden is positioned far away from the rear window of the vehicle. Moreover, the independent claims of the present application now clarify that the frame element includes a transverse member extending adjacent an upper area of a rear window and at least one lengthwise member extending from the transverse member adjacent the rear window. Golden nowhere suggests either of these elements. Therefore, Golden does not anticipate the present invention as recited in any of the independent claims. Likewise, Storck et al nowhere suggests a window area frame element having the claimed transverse and lengthwise members adjacent areas of a rear window. Storck et al. may suggest pivotally mounted panels 22 and 42, but nowhere does Storck suggest a transverse member extending adjacent an upper area of a rear window and at least one lengthwise member extending from the transverse member adjacent the rear window. Thus, Storck et al. does not anticipate the present invention as recited in the newly amended independent claims.

Accordingly, reconsideration and withdrawal of the rejections of independent claims 1, 11, 21 and 23 rejected under 35 U.S.C. §102(e) and 102(b) are in order and respectfully requested. It is believed that dependent claims 2-10, 12-20, 22 and 24-25 are likewise allowable in that they depend from what are believed to be the allowable base independent claims.

Claims 8, 9 and 10 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Storck et al. However, Storck et al. fails to render the dependent claims unpatentable for all the reasons stated hereinabove since claims 8, 9 and 10 are dependent on allowable independent claim 1. Therefore, reconsideration and withdrawal of this rejection is respectfully requested.

The Examiner's early indication of allowable subject matter relative to claims 22, 24 and 25 is appreciated. In response, new claims 26 and 27 are hereby added to reflect in independent form the combinations of original claims 21 and 22, and claims 23 and 24, respectively. Thus, new claims 26 and 27 are believed to be allowable.

In view of the foregoing, it is submitted that the present application is in condition for allowance and a notice to that effect is respectfully requested. However, if the Examiner deems that any issue remains after considering this response, he is invited to call the undersigned to expedite the prosecution and work out any such issue by telephone.

Respectfully submitted,

A handwritten signature in black ink, appearing to be 'Tim L. Brackett, Jr.', written over a horizontal line.

Tim L. Brackett, Jr.  
Registration No. 36,092

NIXON PEABODY LLP  
401 9th Street, N.W., Suite 900  
Washington, D.C. 20004-2128  
(202) 585-8000  
(202) 585-8080 (Fax)  
Customer No. 22204

Date: July 5, 2005